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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,491	10/27/2000	Nereida Maria Menendez	285277-00015	6433

7590 12/15/2006

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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/698,491

Applicant(s)

MENENDEZ ET AL.

Examiner

Naresh Vig

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

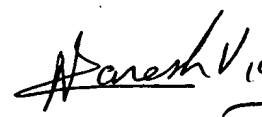
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21 and 24-73.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



Naresh Vig
Examiner
Art Unit: 3629

In response to applicant's argument that the claim makes clear that there is acceptance of the rental proposal and that the term "rental agreement" is one and the same with "rental contract".

However, as recited in Black's Law Dictionary states "an agreement might lack an essential element of a contract". Applicant argues that the agreement is a contract but does not want to use the "contract" in the claim. This itself makes it clear that "agreement" as argued by the applicant is not a "contract" as argued by the applicant. Also, referring to Fig. 6L of the application, applicant recites "You can use your browser's print button to print a hard copy of this confirmation". This statement alone states that applicant's customer is provided a confirmation and not an actual contract as argued by the applicant. In addition, on Fig. 6K, applicant recites "I agree to the terms set forth below and any added pages including the rental agreement jacket I will receive at the renting location". This further shows that the contract as argued by the applicant is not complete contract but a confirmation of a rental agreement.

In response to applicant's argument that applicants' claim language makes clear that the rental proposal is accepted online, and a rental agreement is displayed "based upon the accepted rental proposal", and, Examiner's use of the Black's Law Dictionary definition of "agreement" lacking an essential element of a contract (i.e., acceptance of a proposal) is clearly in error without considering the context of the words of Applicants' claims.

However, as responded to earlier, Black's Law Dictionary states "an agreement might lack an essential element of a contract". Applicant argues that the agreement is a contract but does not want to use the "contract" in the claim. This itself makes it clear that "agreement" as argued by the applicant is not a "contract" as argued by the applicant.

In response to applicant's argument that Figure 6L (emphasis added), the very same button 510 states "print contract".

However, Fig. 6L recites that printing done by using the print button is a confirmation.

In response to applicant's argument that One reason that Hertz does not teach or suggest this recital is that there is no meeting of the minds between Hertz and the user as to exact price and to exact optional items associated with the reservation. Hence, there can be no display of a rental agreement (i.e., "rental contract," which is legally binding on the parties entering into it) based upon any accepted rental proposal.

Once again, applicant is arguing a contract not positively claimed by the applicant, and now the contract is a legally binding contract which is also not positively claimed by the applicant. Applicant is arguing that the contract which is not fully reviewed by their customer (missing pages of the contract as argued by the applicant which will be presented to the customer at the rental facility) will be a legally binding contract. Also, why the agreement is not same as a contract has been responded to earlier.

In response to applicant's argument that cited reference Avis discloses a reservation confirmation rather than displaying a rental agreement based upon an online accepted rental proposal.

However, as responded to earlier, as recited by applicant in Fig. 6L, applicant also creates a confirmation.

In response to applicant's argument that Claim 24 (dependent on independent claim 1) recites displaying a rental confirmation in the rental agreement.

This claim further the examiner's position that the agreement is not the contract as argued by the applicant, but, it is the confirmation of the reservation.